

EXAMINER'S COMMENT

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on April 1, 2009 has been entered.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on April 1, 2009 was filed after the mailing date of the Notice of Allowance on January 9, 2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Allowable Claims

3. Claims 3, 5-8, 22, 23, 25, 27, 31, 34-36, 40, 41, 43 and 44 allowed.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerald Welch on June 4, 2009.

- a. Claims 13 and 16-21, withdrawn without traverse, and withdrawn claims 28-30 are cancelled,
- b. Paragraph 1 of the first page of the specification is amended to read as follows;

This application is a continuation-in-part of copending parent U.S. Patent Application Serial No. 08/293,854 filed August 22, 1994, now abandoned, and a continuation of copending parent U.S. Patent Application Serial No. 08/517,901, filed August 22, 1995, now abandoned.

The claims are amended as follows:

- c. Claims 8, 31 and 40 are amended to recite "a therapeutic combination for promoting tissue healing". This corrects a grammatical error and thus does not require authorization by applicant's attorney.
- d. Claims 31 and 40 are amended to clarify that the tilt sensor determines tilting of the housing when tilting of the housing beyond the predetermined angle is detected.

8. A therapeutic combination for promoting tissue healing, comprising: a porous pad which is permeable to fluids; a tube having a first end in fluid communication with said porous pad; a canister for collecting fluids drawn through said tube, said canister being fluidly connected with a second end of said tube which is opposite the first end of said tube, wherein said canister is removably received in a recess in a housing; a suction

Art Unit: 3761

pump for applying negative pressure to said tube, said suction pump being fluidly connected to said canister; at least one bacterial filter between said canister and said suction pump; an elastomeric film dressing having a pressure-sensitive adhesive in peripheral areas for securing said porous pad to tissue within a sealed space; a sensor for detecting when said canister is substantially full with fluid, said sensor being associated with said suction pump to discontinue application of the negative pressure when a substantially full condition of said canister is detected; and a switch providing a signal indicating that the canister properly resides within the recess when the switch is pressed.

31. A therapeutic combination for promoting tissue healing, comprising: a porous pad which is permeable to fluids; a tube having a first end in fluid communication with said porous pad; a canister for collecting fluids drawn through said tube, said canister being fluidly connected with a second end of said tube which is opposite the first end of said tube, wherein said canister is removably received in a recess in a housing; a suction pump for applying negative pressure to said tube, said suction pump being fluidly connected to said canister; at least one bacterial filter between said canister and said suction pump; an elastomeric film dressing having a pressure-sensitive adhesive in peripheral areas for securing said porous pad to tissue within a sealed space; a tilt sensor for determining tilting of said housing beyond a predetermined angle, said tilt sensor being associated with said suction pump to discontinue application of the negative pressure when tilting of said housing beyond said predetermined angle is detected; and a switch providing a signal indicating that the canister properly resides within the recess when the switch is pressed.

40. A therapeutic combination of promoting tissue healing, comprising: a porous pad which is permeable to fluids; a tube having a first end in fluid communication with said porous pad; a canister for collecting fluids drawn through said tube, said canister being fluidly connected with a second end of said tube which is opposite the first end of said tube, wherein said canister is removably received in a recess in a housing; a suction pump for applying negative pressure to said tube, said suction pump being fluidly connected to said canister; at least one bacterial filter between said canister and said suction pump; an elastomeric film dressing having a pressure-sensitive adhesive in peripheral areas for securing said porous pad to tissue within a sealed space; a sensor for detecting when said canister is substantially full with fluid, said sensor being associated with said suction pump to discontinue application of the negative pressure when a substantially full condition of said canister is detected; a tilt sensor for determining tilting of said housing beyond a predetermined angle, said tilt sensor being associated with said suction pump to discontinue application of the negative pressure when tilting of said housing beyond said predetermined angle is detected; and a switch providing a signal indicating that the canister properly resides within the recess when the switch is pressed; wherein said porous pad comprises a reticulated foam having at least 90% interconnecting cells; and wherein the peripheral areas with the pressure-sensitive adhesive extend beyond a periphery of the porous pad for adhering to intact skin around a wound. -----

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance: A review of the references submitted on the IDS filed April 1, 2009 did not reveal any references, alone or in combination with other references, that would render the claimed invention unpatentable. The closest prior art of record is the Cook reference (U.S. Patent No. 4,627,833), submitted on said IDS, in combination with at least one of the previously cited McNeil, Kruger and Cope references.

3. With respect to independent claim 8, the Cook reference discloses the invention as claimed except for a porous pad, a tube having a first end in fluid communication with the porous pad, at least one bacterial filter between the canister and pump (the filter is inside the canister), an elastomeric film dressing, or a sensor for detecting when the canister is substantially full with fluid associated with the pump. While each of the additional closest prior art references of record, McNeil, Kruger and Cope discloses one of these limitations and could potentially remedy the deficiencies of Cook regarding these limitations, it would not be obvious to one of ordinary skill in the art to make all of the modifications necessary to the prior art device of Cook to arrive at the claimed invention.

4. With respect to independent claim 31, the Cook reference discloses the invention as claimed except for a porous pad, a tube having a first end in fluid communication with the porous pad, at least one bacterial filter between the canister and pump (the filter is inside the canister), an elastomeric film dressing, a tilt sensor for determining tilting of the therapeutic combination, or a sensor for detecting when the canister is substantially full with fluid associated with the pump. While each of the additional closest prior art references of record, McNeil, Kruger and Cope discloses one of these limitations and could potentially remedy the

Art Unit: 3761

deficiencies of Cook regarding these limitations, it would not be obvious to one of ordinary skill in the art to make all of the modifications necessary to the prior art device of Cook to arrive at the claimed invention.

5. With respect to independent claim 41, the Cook reference discloses the invention as claimed except for a porous pad, a tube having a first end in fluid communication with the porous pad, at least one bacterial filter between the canister and pump (the filter is inside the canister), an elastomeric film dressing, a tilt sensor for determining tilting of the therapeutic combination, or a sensor for detecting when the canister is substantially full with fluid associated with the pump. Further, Cook does not disclose any porous pad, and therefore Cook also does not disclose or suggest a porous pad comprising a reticulated foam having at least 90% interconnecting cells. Similarly, since Cook does not disclose an elastomeric film dressing having a pressure-sensitive adhesive in peripheral areas, Cook also necessarily does not disclose or suggest peripheral areas with the pressure-sensitive adhesive that extend beyond a periphery of the porous pad. While each of the additional closest prior art references of record, McNeil, Kruger and Cope discloses one of these limitations and could potentially remedy the deficiencies of Cook regarding these limitations, it would not be obvious to one of ordinary skill in the art to make all of the modifications necessary to the prior art device of Cook to arrive at the claimed invention.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELANIE J. HAND whose telephone number is (571)272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Melanie J Hand/
Examiner, Art Unit 3761